

STATEMENT OF PURPOSE

RS20332C1

Until the summer of 2009, Idaho Code Section 12-117 was interpreted by the Idaho Supreme Court to allow an award of attorney fees and costs to the prevailing party in administrative cases if the non-prevailing party acted without a reasonable basis in fact or law. Following an Idaho Supreme Court ruling in the summer of 2009, which reinterpreted the statute to bar such awards, HB 421 was passed by the 2010 Legislature and signed into law with the objective of allowing such awards at all stages of an administrative proceeding, including on appeal to the courts. Nonetheless, on October 6, 2010, the Idaho Supreme Court ruled that the 2010 amendments did not accomplish this objective. (See *Smith v. Washington County*, 149 Idaho 787, 241 P.3d 960 (2010)). This bill adds additional language to Idaho Code Section 12-117 to correct this situation. It also amends Idaho Code Section 12-117 to cover health districts, which are not technically regarded as state agencies; to prohibit attorney fee and cost awards against individuals and businesses in those administrative cases where a state agency or political subdivision seeks to affect a professional license or an application for such a license, or seeks to impose civil fines or penalties; to provide that the prevailing party in lawsuits between governmental entities is entitled to recover attorney fees and costs as a disincentive to such suits; and to make technical corrections.

FISCAL NOTE

The fiscal impact of this legislation is unknowable because prudent agency management of administrative cases should keep the number and amount of such awards to a minimum, while an absence of such prudence would increase them

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